IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISIDICTION

WRIT PETITION NO.8077 OF 2004

Namdeo Punja Sanap & Ors. ..Petitioners

Vs.

Balu Tukaram Kekan and Ors. ..Respondents

....

Mr.P.N.Joshi for Petitioners
Mr.P.S.Dani for Respondents

....

CORAM : B.H.MARLAPALLE,J.

DATE : FEBRUARY 9,2005

P.C.:

1. Heard Mr.Joshi, the learned counsel for the petitioners and Mr.Dani, the learned counsel for the respondent no.1-caveator.

2. Both the Courts below have considered prima facie documentary evidence in support of injunction application filed by the plaintiff and the lower appellate Court has rejected the counterclaim for injunction made by the defendants-present petitioners. The reasoning set out in para 15 onwards in the impugned order passed by the lower appellate Court, cannot be termed to be erroneous, leave alone manifestly erroneous.

3. No interference is called for in the concurrent

views taken by the Courts below under Article 227 of the Constitution of India and hence, the petition is rejected summarily.

4. However, if the petitioners/defendants apply for appointment of Court Commissioner to the trial Court, the same application will be considered on its own merits.

[B.H.MARLAPALLE,J.]